

1 **COUNTY OPTION SALES AND USE TAX FOR**
2 **HIGHWAYS, FIXED GUIDEWAYS, OR**
3 **SYSTEMS FOR PUBLIC TRANSIT**

4 2003 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Jeff Alexander**

7 **This act modifies the Sales and Use Tax Act to provide definitions and to authorize a**
8 **county legislative body to impose a local option sales and use tax beginning on or after**
9 **§ [~~October 1, 2003~~] APRIL 1, 2005 § for highways, fixed guideways, or systems for public transit.**

9a **The act**

10 **provides procedures and requirements for imposing the tax and establishes the duties of**
11 **the State Tax Commission to administer, collect, and enforce the tax. The act authorizes**
12 **the State Tax Commission to retain a portion of the tax to cover the costs of**
13 **administering the tax. The act creates the State Highway Projects Within Counties Fund.**
14 **The act requires the Department of Transportation to make a separate accounting for**
15 **each county for which revenues are deposited into the fund. This act provides the**
16 **purposes for which revenues and interest deposited into the fund may be expended. The**
17 **act provides that the fund shall earn interest and the interest shall be allocated to each**
18 **county for which revenues are deposited into the fund.**

19 This act affects sections of Utah Code Annotated 1953 as follows:

20 ENACTS:

21 **59-12-1501**, Utah Code Annotated 1953

22 **59-12-1502**, Utah Code Annotated 1953

23 **59-12-1503**, Utah Code Annotated 1953

24 **72-2-121.1**, Utah Code Annotated 1953

25 *Be it enacted by the Legislature of the state of Utah:*

26 Section 1. Section **59-12-1501** is enacted to read:

27 **Part 15. County Option Sales and Use Tax for Highways, Fixed Guideways,**



or Systems for Public Transit

59-12-1501. Title.

This part is known as the "County Option Sales and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit Act."

Section 2. Section 59-12-1502 is enacted to read:

59-12-1502. Definitions.

As used in this part:

(1) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(2) "Annexing area" means an area that is annexed into a county.

(3) "Qualifying county" means a county in which a sales and use tax authorized by Section 59-12-502 is not imposed by:

- (a) the county;
(b) a city within the county; or
(c) a town within the county.

(4) "State highway" means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

(5) (a) Except as provided in Subsection (5)(b), "public transit" is as defined in Section 17A-2-1004.

(b) Notwithstanding Subsection (5)(a), "public transit" does not include a fixed guideway system.

Section 3. Section 59-12-1503 is enacted to read:

59-12-1503. Opinion question election -- Imposition of tax -- Use of tax revenues.

(1) (a) Beginning on or after § [October 1, 2003] APRIL 1, 2005 § , and subject to the other provisions of this part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

- (i) except as provided in Subsection (1)(b), on the transactions:
(A) described in Subsection 59-12-103(1); and
(B) within the county, including the cities and towns within the county;
(ii) for the purposes determined by the county legislative body in accordance with Subsection (2); and

59 (iii) in addition to any other sales and use tax authorized under this chapter.

60 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
61 tax under this section on:

62 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
63 are exempt from taxation under Section 59-12-104; and

64 (ii) any amount paid or charged by a vendor that collects a tax under Subsection
65 59-12-107(1)(b).

66 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
67 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
68 revenues the county will receive from the tax under this part that will be allocated to fund one
69 or more of the following:

70 (i) a project or service relating to a fixed guideway system:

71 (A) for the portion of the project or service that is performed within the county; and

72 (B) if the fixed guideway system is owned and operated by a public transit district
73 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

74 (ii) a project or service relating to a system for public transit:

75 (A) for the portion of the project or service that is performed within the county; and

76 (B) if the system for public transit is owned and operated by a public transit district
77 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or

78 (iii) the following relating to a state highway within the county:

79 (A) a project beginning on or after § ~~[October 1, 2003]~~ **THE DAY ON WHICH A COUNTY**

79a **LEGISLATIVE BODY IMPOSES A TAX UNDER THIS PART** § only within the county involving:

80 (I) new construction;

81 (II) a renovation;

82 (III) an improvement; or

83 (IV) an environmental study;

84 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or

85 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
86 through (IV).

87 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)

88 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the

89 tax under this part.

90 (ii) For purposes of Subsection (2)(b), the revenues a county will receive from the tax
 91 under this part do not include amounts retained by the commission in accordance with
 92 Subsection (8).

93 (3) (a) Before imposing a tax under this part, a county legislative body shall:

94 (i) obtain approval from a majority of the members of the county legislative body to:

95 (A) impose the tax; and

96 (B) allocate the revenues the county will receive from the tax in accordance with the
 97 resolution adopted in accordance with Subsection (2); and

98 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
 99 voters voting on the imposition of the tax so that each registered voter has the opportunity to
 100 express the registered voter's opinion on whether a tax should be imposed under this part.

101 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
 102 specified in the resolution:

103 (i) adopted in accordance with Subsection (2); and

104 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

105 (c) The election required by this Subsection (3) shall § [follow the procedures outlined in]

105a **BE HELD:**

105b **(i) AT A REGULAR GENERAL ELECTION; AND**

105c **(ii) IN ACCORDANCE WITH THE PROCEDURES AND REQUIREMENTS OF TITLE 20A,**

105d **ELECTION CODE, GOVERNING REGULAR GENERAL ELECTIONS.**

106 **[Title 11, Chapter 14, Utah Municipal Bond Act.] §**

107 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
 108 of the county's registered voters voting on the imposition of the tax have voted in favor of the
 109 imposition of the tax in accordance with Subsection (3), the county legislative body may
 110 impose the tax by a majority vote of all of the members of the county legislative body.

111 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
 112 generated by the tax shall be:

113 (i) allocated in accordance with the allocations specified in the resolution under
 114 Subsection (2); and

115 (ii) expended as provided in this part.

116 (5) If a county legislative body allocates revenues generated by the tax for a project
 117 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
 118 shall:

119 (a) obtain approval from the Transportation Commission to complete the project; and

120 (b) enter into an interlocal agreement:

121 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

122 (ii) with the Department of Transportation; and

123 (iii) to complete the project.

124 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
125 legislative body seeks to change the allocation of the tax specified in the resolution under
126 Subsection (2), the county legislative body may change the allocation of the tax by:

127 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
128 revenues the county will receive from the tax under this part that will be allocated to fund one
129 or more of the systems or projects described in Subsection (2);

130 (ii) obtaining approval to change the allocation of the tax from a majority of the
131 members of the county legislative body; and

132 (iii) (A) submitting an opinion question to the county's registered voters voting on
133 changing the allocation of the tax so that each registered voter has the opportunity to express
134 the registered voter's opinion on whether the allocation of the tax should be changed; and

135 (B) obtaining approval to change the allocation of the tax from a majority of the
136 county's registered voters voting on changing the allocation of the tax.

137 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
138 specified in the resolution:

139 (A) adopted in accordance with Subsection (6)(a)(i); and

140 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

141 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
142 requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

143 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
144 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be
145 transmitted:

146 (A) by the commission;

147 (B) to the county;

148 (C) monthly; and

149 (D) by electronic funds transfer.

150 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission
151 transfer the revenues described in Subsection (7)(a)(i):

152 (A) directly to a public transit district:

153 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

154 (II) designated by the county; and

155 (B) by providing written notice to the commission:

156 (I) requesting the revenues to be transferred directly to a public transit district as
 157 provided in Subsection (7)(a)(ii)(A); and

158 (II) designating the public transit district to which the revenues are requested to be
 159 transferred.

160 (b) Revenues generated by a tax under this part that are allocated for a purpose
 161 described in Subsection (2)(a)(iii) shall be:

162 (i) deposited into the State Highway Projects Within Counties Fund created by Section
 163 72-2-121.1; and

164 (ii) expended as provided in Section 72-2-121.1.

165 (8) (a) The commission shall administer, collect, and enforce the tax under this part in
 166 accordance with the procedures outlined in:

167 (i) Part 1, Tax Collection, for the administration, collection, and enforcement of the
 168 state sales and use tax; and

169 (ii) Chapter 1, General Taxation Policies.

170 (b) (i) The commission may retain an amount of tax collected under this part of not to
 171 exceed the lesser of:

172 (A) 1.5%; or

173 (B) an amount equal to the cost to the commission of administering this part.

174 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

175 (A) placed in the Sales and Use Tax Administrative Fees Account; and

176 (B) used as provided in Subsection 59-12-206(2).

177 (9) (a) (i) If, on or after ~~§ [October 1, 2003]~~ **APRIL 1, 2005** § , a county enacts or repeals a tax
 177a under this

178 part, the enactment or repeal shall take effect:

179 (A) on the first day of a calendar quarter; and

180 (B) after a 75-day period beginning on the date the commission receives notice meeting
 181 the requirements of Subsection (9)(a)(ii) from the county.

182 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

183 (A) that the county will enact or repeal a tax under this part;

184 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

185 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

186 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

187 (b) (i) If, for an annexation that occurs on or after § ~~October 1, 2003~~ APRIL 1, 2005 § , the
187a annexation will

188 result in the enactment or repeal of a tax under this part for an annexing area, the enactment or
189 repeal shall take effect:

190 (A) on the first day of a calendar quarter; and

191 (B) after a 75-day period beginning on the date the commission receives notice meeting
192 the requirements of Subsection (9)(b)(ii) from the county that annexes the annexing area.

193 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

194 (A) that the annexation described in Subsection (9)(b)(i)(B) will result in an enactment
195 or repeal of a tax under this part for the annexing area;

196 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

197 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

198 (D) the rate of the tax described in Subsection (9)(b)(ii)(A).

199 Section 4. Section **72-2-121.1** is enacted to read:

200 **72-2-121.1. State Highway Projects Within Counties Fund -- Accounting for**
201 **revenues -- Interest -- Expenditure of revenues.**

202 (1) There is created a special revenue fund known as the State Highway Projects
203 Within Counties Fund.

204 (2) The State Highway Projects Within Counties Fund shall be funded by revenues
205 generated by a tax imposed by a county under Title 59, Chapter 12, Part 15, County Option
206 Sales and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit, if those
207 revenues are allocated:

208 (a) for a purpose described in Subsection 59-12-1503(2)(a)(iii); and

209 (b) in accordance with Section 59-12-1503.

210 (3) The department shall make a separate accounting for:

211 (a) the revenues described in Subsection (2); and

212 (b) each county for which revenues are deposited into the State Highway Projects
213 Within Counties Fund.

- 214 (4) (a) The State Highway Projects Within Counties Fund shall earn interest.
- 215 (b) The department shall allocate the interest earned on the State Highway Projects
- 216 Within Counties Fund:
- 217 (i) proportionately;
- 218 (ii) to each county's balance in the State Highway Project Within Counties Fund; and
- 219 (iii) on the basis of each county's balance in the State Highway Projects Within
- 220 Counties Fund.
- 221 (5) The department shall expend the revenues and interest deposited into the State
- 222 Highway Projects Within Counties Fund to pay:
- 223 (a) for a project:
- 224 (i) described in Subsection 59-12-1503(2)(a)(iii)(A); and
- 225 (ii) for which the requirements of Subsection 59-12-1503(5) are met;
- 226 (b) debt service on a project described in Subsection (5)(a); or
- 227 (c) bond issuance costs relating to a project described in Subsection (5)(a).

Legislative Review Note
as of 2-18-03 3:51 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0136

**County Option Sales and Use Tax For Highways, Fixed
Guideways, or Systems For Public Transit**

28-Feb-03
4:01 PM

AMENDED NOTE

State Impact

Local revenues could increase by \$27,700,00 if passed by all eligible counties. The Tax Commission would require an appropriation of \$163,900 from their Sales and Use Tax Administration Fee to implement the provisions of the bill.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Sales Tax Admin. Fee	\$163,900	\$0	\$0	\$0
TOTAL	\$163,900	\$0	\$0	\$0

Individual and Business Impact

Individuals could see increases in sales tax liability of .25 percent.

Office of the Legislative Fiscal Analyst